

Assembly Bill No. 226

Passed the Assembly August 21, 2003

Chief Clerk of the Assembly

Passed the Senate July 24, 2003

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2003, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Section 10110.1 of, and to add Section 10110.4 to, the Insurance Code, relating to life insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 226, Vargas. Life insurance: corporate-owned policies.

Existing law generally regulates the issuance and terms of life insurance policies. Existing law provides that an employer has an insurable interest in the life of an employee.

This bill would prohibit an insurer from issuing or delivering a life insurance policy that is purchased by a California employer, that designates the employer as the beneficiary of the policy, and that insures the life of a California resident who is the employer's current or former nonexempt employee and who meets other specified criteria. The bill would provide that policies prohibited by the bill that are purchased on or after the effective date of the bill are void. It would allow policies purchased prior to the effective date of the bill insuring the lives of nonexempt employees to remain in effect until the next premium payment date on or after the date 5 years from the effective date of the bill, but no later than January 1, 2010, at which time they would become void, unless they fall within a specified exception. The bill would make a related statement of the Legislature's intent.

The people of the State of California do enact as follows:

SECTION 1. Section 10110.1 of the Insurance Code is amended to read:

10110.1. (a) An insurable interest, with reference to life and disability insurance, is an interest based upon a reasonable expectation of pecuniary advantage through the continued life, health, or bodily safety of another person and consequent loss by reason of that person's death or disability or a substantial interest engendered by love and affection in the case of individuals closely related by blood or law.

(b) An individual has an unlimited insurable interest in his or her own life, health, and bodily safety and may lawfully take out a policy of insurance on his or her own life, health, or bodily safety



and have the policy made payable to whomsoever he or she pleases, regardless of whether the beneficiary designated has an insurable interest.

(c) Except as provided in Section 10110.4, an employer has an insurable interest, as referred to in subdivision (a), in the life or physical or mental ability of any of its directors, officers, or employees or the directors, officers, or employees of any of its subsidiaries or any other person whose death or physical or mental disability might cause financial loss to the employer; or, pursuant to any contractual arrangement with any shareholder concerning the reacquisition of shares owned by the shareholder at the time of his or her death or disability, on the life or physical or mental ability of that shareholder for the purpose of carrying out the contractual arrangement; or, pursuant to any contract obligating the employer as part of compensation arrangements or pursuant to a contract obligating the employer as guarantor or surety, on the life of the principal obligor. The trustee of an employer or trustee of a pension, welfare benefit plan, or trust established by an employer providing life, health, disability, retirement, or similar benefits to employees and retired employees of the employer or its affiliates and acting in a fiduciary capacity with respect to those employees, retired employees, or their dependents or beneficiaries has an insurable interest in the lives of employees and retired employees for whom those benefits are to be provided. The employer shall obtain the written consent of the individual being insured.

(d) An insurable interest shall be required to exist at the time the contract of life or disability insurance becomes effective, but need not exist at the time the loss occurs.

(e) Any contract of life or disability insurance procured or caused to be procured upon another individual is void unless the person applying for the insurance has an insurable interest in the individual insured at the time of the application.

(f) Notwithstanding subdivisions (a), (d), and (e), a charitable organization that meets the requirements of Section 214 or 23701d of the Revenue and Taxation Code may effectuate life or disability insurance on an insured who consents to the issuance of that insurance.

(g) This section shall not be interpreted to define all instances in which an insurable interest exists.



SEC. 2. Section 10110.4 is added to the Insurance Code, to read:

10110.4. (a) Except as allowed in subdivision (c), an insurer may not issue or deliver a corporate-owned life insurance policy.

(b) “Corporate-owned life insurance policy” means a life insurance policy that is purchased by a California employer, that designates the employer as the beneficiary of the policy, and that insures the life of a California resident who is a current or former employee of the employer.

(c) This section does not apply to a policy insuring the life of a current or former exempt employee. An exempt employee is an administrative, executive, or professional employee who is exempt under Section 515 of the Labor Code and the regulations adopted pursuant thereto.

(d) Except as provided in subdivision (f), it is a violation of public policy for a California employer to purchase or hold a corporate-owned life insurance policy.

(e) (1) A corporate-owned life insurance policy purchased on or after the effective date of this section is void.

(2) Except as provided in subdivision (f), a corporate-owned life insurance policy purchased prior to the effective date of this section shall become void on the next premium payment date on or after the date five years from the effective date of this section, but no later than January 1, 2010.

(f) A corporate-owned life insurance policy purchased prior to the effective date of this section that insures the life of a current or former nonexempt employee shall continue in force after the effective date of this section provided that no further premium payments are made after the effective date of this section. However, an employer who has purchased and holds such a corporate-owned life insurance policy shall disclose in writing to the current or former nonexempt employee whose life is insured by the policy, within 90 days of the effective date of this section, all of the following information:

(1) The existence of the corporate-owned life insurance policy on the life of the nonexempt employee.

(2) The identity of the insurer under the policy.

(3) The benefit amount under the policy, unless the full amount of the benefit is used to defray the costs of nonexempt employee benefits.



(4) How benefits paid under the policy would be used.

(5) The name of the beneficiary under the policy.

(g) For a former employee, the disclosure requirements shall be deemed satisfied if the employer mails the required information to the former employee's last known address.

SEC. 3. It is the intent of the Legislature that all corporate-owned life insurance policies, as described in Section 10110.4 of the Insurance Code, purchased prior to the effective date of this act, except for those policies specified in subdivision (f) of that section, shall become void no later than January 1, 2010.



Approved _____, 2003

Governor

